

(2) other information concerning pathogens and pathogen indicators in coastal recreation waters that—

(A) is made available to the Administrator by a State or local government, from a coastal water quality monitoring program of the State or local government; and

(B) the Administrator determines should be included.

(f) Technical assistance for monitoring floatable material

The Administrator shall provide technical assistance to States and local governments for the development of assessment and monitoring procedures for floatable material to protect public health and safety in coastal recreation waters.

(g) List of waters

(1) In general

Beginning not later than 18 months after the date of publication of performance criteria under subsection (a), based on information made available to the Administrator, the Administrator shall identify, and maintain a list of, discrete coastal recreation waters adjacent to beaches or similar points of access that are used by the public that—

(A) specifies any waters described in this paragraph that are subject to a monitoring and notification program consistent with the performance criteria established under subsection (a); and

(B) specifies any waters described in this paragraph for which there is no monitoring and notification program (including waters for which fiscal constraints will prevent the State or the Administrator from performing monitoring and notification consistent with the performance criteria established under subsection (a)).

(2) Availability

The Administrator shall make the list described in paragraph (1) available to the public through—

(A) publication in the Federal Register; and

(B) electronic media.

(3) Updates

The Administrator shall update the list described in paragraph (1) periodically as new information becomes available.

(h) EPA implementation

In the case of a State that has no program for monitoring and notification that is consistent with the performance criteria published under subsection (a) after the last day of the 3-year period beginning on the date on which the Administrator lists waters in the State under subsection (g)(1)(B), the Administrator shall conduct a monitoring and notification program for the listed waters based on a priority ranking established by the Administrator using funds appropriated for grants under subsection (i)—

(1) to conduct monitoring and notification; and

(2) for related salaries, expenses, and travel.

(i) Authorization of appropriations

There is authorized to be appropriated for making grants under subsection (b), including

implementation of monitoring and notification programs by the Administrator under subsection (h), \$30,000,000 for each of fiscal years 2001 through 2005.

(June 30, 1948, ch. 758, title IV, § 406, as added Pub. L. 106-284, § 4, Oct. 10, 2000, 114 Stat. 872.)

SUBCHAPTER V—GENERAL PROVISIONS

§ 1361. Administration

(a) Authority of Administrator to prescribe regulations

The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this chapter.

(b) Utilization of other agency officers and employees

The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this chapter.

(c) Recordkeeping

Each recipient of financial assistance under this chapter shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate effective audit.

(d) Audit

The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter. For the purpose of carrying out audits and examinations with respect to recipients of Federal assistance under this chapter, the Administrator is authorized to enter into noncompetitive procurement contracts with independent State audit organizations, consistent with chapter 75 of title 31. Such contracts may only be entered into to the extent and in such amounts as may be provided in advance in appropriation Acts.

(e) Awards for outstanding technological achievement or innovative processes, methods, or devices in waste treatment and pollution abatement programs

(1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs. The Administrator shall, in consultation with the appropriate State water pollution control agencies, establish regulations under which such recognition may be ap-

plied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality requirements under this chapter, or otherwise does not have a satisfactory record with respect to environmental quality.

(2) The Administrator shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established under this subsection.

(3) The President of the United States, the Governor of the appropriate State, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall be notified of the award by the Administrator and the awarding of such recognition shall be published in the Federal Register.

(f) Detail of Environmental Protection Agency personnel to State water pollution control agencies

Upon the request of a State water pollution control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this chapter.

(June 30, 1948, ch. 758, title V, § 501, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 885; amended Pub. L. 100-4, title V, § 501, Feb. 4, 1987, 101 Stat. 75.)

AMENDMENTS

1987—Subsec. (d). Pub. L. 100-4 inserted provision at end authorizing Administrator to enter into non-competitive procurement contracts with independent State audit organizations, consistent with chapter 75 of title 31, but only to extent and in such amounts as provided in advance in appropriations Acts.

APPLICABILITY OF SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE

Pub. L. 113-121, title I, § 1049, June 10, 2014, 128 Stat. 1257, as amended by Pub. L. 114-322, title IV, § 5011, Dec. 16, 2016, 130 Stat. 1902, provided that:

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) FARM.—The term ‘farm’ has the meaning given the term in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

“(3) GALLON.—The term ‘gallon’ means a United States gallon.

“(4) OIL.—The term ‘oil’ has the meaning given the term in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

“(5) OIL DISCHARGE.—The term ‘oil discharge’ has the meaning given the term ‘discharge’ in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

“(6) REPORTABLE OIL DISCHARGE HISTORY.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘reportable oil discharge history’ means a single oil discharge, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that exceeds 1,000 gallons or 2 oil discharges, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that each exceed 42 gallons within any 12-month period—

“(i) in the 3 years prior to the certification date of the Spill Prevention, Control, and Countermeasure plan (as described in section 112.3 of title

40, Code of Federal Regulations (including successor regulations); or

“(ii) since becoming subject to part 112 of title 40, Code of Federal Regulations, if the facility has been in operation for less than 3 years.

“(B) EXCLUSIONS.—The term ‘reportable oil discharge history’ does not include an oil discharge, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that is the result of a natural disaster, an act of war, or terrorism.

“(7) SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE.—The term ‘Spill Prevention, Control, and Countermeasure rule’ means the regulation, including amendments, promulgated by the Administrator under part 112 of title 40, Code of Federal Regulations (or successor regulations).

“(b) CERTIFICATION.—In implementing the Spill Prevention, Control, and Countermeasure rule with respect to any farm, the Administrator shall—

“(1) require certification by a professional engineer for a farm with—

“(A) an individual tank with an aboveground storage capacity greater than 10,000 gallons;

“(B) an aggregate aboveground storage capacity greater than or equal to 20,000 gallons; or

“(C) a reportable oil discharge history; or

“(2) allow certification by the owner or operator of the farm (via self-certification) for a farm with—

“(A) an aggregate aboveground storage capacity less than 20,000 gallons and greater than the lesser of—

“(i) 6,000 gallons; and

“(ii) the adjustment quantity established under subsection (d)(2); and

“(B) no reportable oil discharge history; and

“(3) not require compliance with the rule by any farm—

“(A) with an aggregate aboveground storage capacity greater than 2,500 gallons and less than the lesser of—

“(i) 6,000 gallons; and

“(ii) the adjustment quantity established under subsection (d)(2); and

“(B) no reportable oil discharge history; and

“(4) not require compliance with the rule by any farm with an aggregate aboveground storage capacity of less than 2,500 gallons.

“(c) REGULATION OF ABOVEGROUND STORAGE AT FARMS.—

“(1) CALCULATION OF AGGREGATE ABOVEGROUND STORAGE CAPACITY.—For purposes of subsection (b), the aggregate aboveground storage capacity of a farm excludes—

“(A) all containers on separate parcels that have a capacity that is 1,000 gallons or less; and

“(B) all containers holding animal feed ingredients approved for use in livestock feed by the Commissioner of Food and Drugs.

“(2) CERTAIN FARM CONTAINERS.—Part 112 of title 40, Code of Federal Regulations (or successor regulations), shall not apply to the following containers located at a farm:

“(A) Containers on a separate parcel that have—

“(i) an individual capacity of not greater than 1,000 gallons; and

“(ii) an aggregate capacity of not greater than 2,500 gallons.

“(B) A container holding animal feed ingredients approved for use in livestock feed by the Food and Drug Administration.

“(d) STUDY.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [June 10, 2014], the Administrator, in consultation with the Secretary of Agriculture, shall conduct a study to determine the appropriate exemption under paragraphs (2) and (3) of subsection (b), which shall be not more than 6,000 gallons and not less than 2,500 gallons, based on a significant risk of discharge to water.

“(2) ADJUSTMENT.—Not later than 18 months after the date on which the study described in paragraph (1) is complete, the Administrator, in consultation with the Secretary of Agriculture, shall promulgate a rule to adjust the exemption levels described in paragraphs (2) and (3) of subsection (b) in accordance with the study.”

ENVIRONMENTAL COURT FEASIBILITY STUDY

Pub. L. 92-500, §9, Oct. 18, 1972, 86 Stat. 899, authorized the President, acting through the Attorney General, to study the feasibility of establishing a separate court or court system with jurisdiction over environmental matters and required him to report the results of his study, together with his recommendations, to Congress not later than one year after Oct. 18, 1972.

TRANSFER OF PUBLIC HEALTH SERVICE OFFICERS

Pub. L. 89-234, §2(b)-(k), Oct. 2, 1965, 79 Stat. 904, 905, authorized the transfer of certain commissioned officers of the Public Health Service to classified positions in the Federal Water Pollution Control Administration, now the Environmental Protection Agency, where such transfer was requested within six months after the establishment of the Administration and made certain administrative provisions relating to pension and retirement rights of the transferees, sick leave benefits, group life insurance, and certain other miscellaneous provisions.

§ 1362. Definitions

Except as otherwise specifically provided, when used in this chapter:

(1) The term “State water pollution control agency” means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

(2) The term “interstate agency” means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

(3) The term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(4) The term “municipality” means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 1288 of this title.

(5) The term “person” means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

(6) The term “pollutant” means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) “sewage from vessels or a discharge incidental to the normal op-

eration of a vessel of the Armed Forces” within the meaning of section 1322 of this title; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.

(7) The term “navigable waters” means the waters of the United States, including the territorial seas.

(8) The term “territorial seas” means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

(9) The term “contiguous zone” means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(10) The term “ocean” means any portion of the high seas beyond the contiguous zone.

(11) The term “effluent limitation” means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.

(12) The term “discharge of a pollutant” and the term “discharge of pollutants” each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

(13) The term “toxic pollutant” means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

(14) The term “point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

(15) The term “biological monitoring” shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms representative

of appropriate levels of the food chain appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and (B) at appropriate frequencies and locations.

(16) The term “discharge” when used without qualification includes a discharge of a pollutant, and a discharge of pollutants.

(17) The term “schedule of compliance” means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

(18) The term “industrial user” means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category of “Division D—Manufacturing” and such other classes of significant waste producers as, by regulation, the Administrator deems appropriate.

(19) The term “pollution” means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(20) The term “medical waste” means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.

(21) COASTAL RECREATION WATERS.—

(A) IN GENERAL.—The term “coastal recreation waters” means—

(i) the Great Lakes; and

(ii) marine coastal waters (including coastal estuaries) that are designated under section 1313(c) of this title by a State for use for swimming, bathing, surfing, or similar water contact activities.

(B) EXCLUSIONS.—The term “coastal recreation waters” does not include—

(i) inland waters; or

(ii) waters upstream of the mouth of a river or stream having an unimpaired natural connection with the open sea.

(22) FLOATABLE MATERIAL.—

(A) IN GENERAL.—The term “floatable material” means any foreign matter that may float or remain suspended in the water column.

(B) INCLUSIONS.—The term “floatable material” includes—

(i) plastic;

(ii) aluminum cans;

(iii) wood products;

(iv) bottles; and

(v) paper products.

(23) PATHOGEN INDICATOR.—The term “pathogen indicator” means a substance that indicates the potential for human infectious disease.

(24) OIL AND GAS EXPLORATION AND PRODUCTION.—The term “oil and gas exploration, production, processing, or treatment operations or transmission facilities” means all field activities or operations associated with exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equip-

ment, whether or not such field activities or operations may be considered to be construction activities.

(25) RECREATIONAL VESSEL.—

(A) IN GENERAL.—The term “recreational vessel” means any vessel that is—

(i) manufactured or used primarily for pleasure; or

(ii) leased, rented, or chartered to a person for the pleasure of that person.

(B) EXCLUSION.—The term “recreational vessel” does not include a vessel that is subject to Coast Guard inspection and that—

(i) is engaged in commercial use; or

(ii) carries paying passengers.

(26) TREATMENT WORKS.—The term “treatment works” has the meaning given the term in section 1292 of this title.

(27) GREEN INFRASTRUCTURE.—The term “green infrastructure” means the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspire stormwater and reduce flows to sewer systems or to surface waters.

(June 30, 1948, ch. 758, title V, § 502, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 886; amended Pub. L. 95-217, § 33(b), Dec. 27, 1977, 91 Stat. 1577; Pub. L. 100-4, title V, §§ 502(a), 503, Feb. 4, 1987, 101 Stat. 75; Pub. L. 100-688, title III, § 3202(a), Nov. 18, 1988, 102 Stat. 4154; Pub. L. 104-106, div. A, title III, § 325(c)(3), Feb. 10, 1996, 110 Stat. 259; Pub. L. 106-284, § 5, Oct. 10, 2000, 114 Stat. 875; Pub. L. 109-58, title III, § 323, Aug. 8, 2005, 119 Stat. 694; Pub. L. 110-288, § 3, July 29, 2008, 122 Stat. 2650; Pub. L. 113-121, title V, § 5012(b), June 10, 2014, 128 Stat. 1328; Pub. L. 115-436, § 5(a), Jan. 14, 2019, 132 Stat. 5561.)

AMENDMENTS

2019—Par. (27). Pub. L. 115-436 added par. (27).

2014—Par. (26). Pub. L. 113-121 added par. (26).

2008—Par. (25). Pub. L. 110-288 added par. (25).

2005—Par. (24). Pub. L. 109-58 added par. (24).

2000—Pars. (21) to (23). Pub. L. 106-284 added pars. (21) to (23).

1996—Par. (6)(A). Pub. L. 104-106 substituted ““sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces”” for ““sewage from vessels””.

1988—Par. (20). Pub. L. 100-688 added par. (20).

1987—Par. (3). Pub. L. 100-4, § 502(a), inserted “the Commonwealth of the Northern Mariana Islands,” after “Samoa.”

Par. (14). Pub. L. 100-4, § 503, inserted “agricultural stormwater discharges and” after “does not include”.

1977—Par. (14). Pub. L. 95-217 inserted provision that “point source” does not include return flows from irrigated agriculture.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-121 effective Oct. 1, 2014, see section 5012(c) of Pub. L. 113-121, set out as a note under section 1292 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219,

respectively, set out as notes under section 1331 of Title 43, Public Lands.

DEFINITION OF "POINT SOURCE"

Pub. L. 100-4, title V, § 507, Feb. 4, 1987, 101 Stat. 78, provided that: "For purposes of the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the term 'point source' includes a landfill leachate collection system."

§ 1363. Water Pollution Control Advisory Board

(a) Establishment; composition; terms of office

(1) There is hereby established in the Environmental Protection Agency a Water Pollution Control Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this chapter, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of pollution prevention and control, as well as other individuals who are expert in this field.

(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding term.

(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding \$100 per diem, including travel-time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

(b) Functions

The Board shall advise, consult with, and make recommendations to the Administrator on matters of policy relating to the activities and functions of the Administrator under this chapter.

(c) Clerical and technical assistance

Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Environmental Protection Agency.

(June 30, 1948, ch. 758, title V, § 503, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 887.)

REFERENCES IN TEXT

Travel expenses, including per diem in lieu of subsistence as authorized by law, referred to in subsec. (a)(2)(B), probably means the allowances authorized by section 5703 of Title 5, Government Organization and Employees.

CONTINUATION OF TERM OF OFFICE

Pub. L. 87-88, § 6(c), July 20, 1961, 75 Stat. 207, provided that members of the Water Pollution Control Advisory Board holding office immediately preceding July 20, 1961 were to remain in office as members of the Board as established by section 6(a) of Pub. L. 87-88 until the expiration of the terms of office for which they were originally appointed.

TERMS OF OFFICE OF MEMBERS OF WATER POLLUTION CONTROL ADVISORY BOARD

Act July 9, 1956, ch. 518, § 3, 70 Stat. 507, provided that the terms of office of members of the Water Pollution Control Advisory Board, holding office on July 9, 1956, were to terminate at the close of business on that date.

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1364. Emergency powers

(a) Emergency powers

Notwithstanding any other provision of this chapter, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, such as inability to market shellfish, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

(b) Repealed. Pub. L. 96-510, title III, § 304(a), Dec. 11, 1980, 94 Stat. 2809

(June 30, 1948, ch. 758, title V, § 504, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 888; amended Pub. L. 95-217, § 69, Dec. 27, 1977, 91 Stat. 1607; Pub. L. 96-510, title III, § 304(a), Dec. 11, 1980, 94 Stat. 2809.)

AMENDMENTS

1980—Subsec. (b). Pub. L. 96-510 struck out subsec. (b) which related to emergency assistance, establishment of an emergency fund, and preparation of a contingency plan for such emergencies.

1977—Pub. L. 95-217 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-510 effective Dec. 11, 1980, see section 9652 of Title 42, The Public Health and Welfare.

§ 1365. Citizen suits**(a) Authorization; jurisdiction**

Except as provided in subsection (b) of this section and section 1319(g)(6) of this title, any citizen may commence a civil action on his own behalf—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (A) an effluent standard or limitation under this chapter or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an effluent standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be, and to apply any appropriate civil penalties under section 1319(d) of this title.

(b) Notice

No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Administrator, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States, or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any citizen may intervene as a matter of right.

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator,

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of sections 1316 and 1317(a) of this title. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) Venue; intervention by Administrator; United States interests protected

(1) Any action respecting a violation by a discharge source of an effluent standard or limitation or an order respecting such standard or limitation may be brought under this section only in the judicial district in which such source is located.

(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

(3) PROTECTION OF INTERESTS OF UNITED STATES.—Whenever any action is brought under

this section in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General and the Administrator. No consent judgment shall be entered in an action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.

(d) Litigation costs

The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Statutory or common law rights not restricted

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any effluent standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

(f) Effluent standard or limitation

For purposes of this section, the term “effluent standard or limitation under this chapter” means (1) effective July 1, 1973, an unlawful act under subsection (a) of section 1311 of this title; (2) an effluent limitation or other limitation under section 1311 or 1312 of this title; (3) standard of performance under section 1316 of this title; (4) prohibition, effluent standard or pretreatment standards under section 1317 of this title; (5) a standard of performance or requirement under section 1322(p) of this title; (6) a certification under section 1341 of this title; (7) a permit or condition of a permit issued under section 1342 of this title that is in effect under this chapter (including a requirement applicable by reason of section 1323 of this title); or (8) a regulation under section 1345(d) of this title.

(g) “Citizen” defined

For the purposes of this section the term “citizen” means a person or persons having an interest which is or may be adversely affected.

(h) Civil action by State Governors

A Governor of a State may commence a civil action under subsection (a), without regard to the limitations of subsection (b) of this section, against the Administrator where there is alleged a failure of the Administrator to enforce an effluent standard or limitation under this chapter the violation of which is occurring in another State and is causing an adverse effect on the public health or welfare in his State, or is causing a violation of any water quality requirement in his State.

(June 30, 1948, ch. 758, title V, § 505, as added Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 888; amended Pub. L. 100–4, title III, § 314(c), title IV, § 406(d)(2), title V, §§ 504, 505(c), Feb. 4, 1987, 101 Stat. 49, 73, 75, 76; Pub. L. 115–282, title IX, § 903(c)(3), Dec. 4, 2018, 132 Stat. 4356.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (d), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2018—Subsec. (f). Pub. L. 115-282 substituted “(5) a standard of performance or requirement under section 1322(p) of this title; (6) a certification under section 1341 of this title; (7) a permit or condition of a permit issued under section 1342 of this title that is in effect under this chapter (including a requirement applicable by reason of section 1323 of this title); or (8) a regulation under section 1345(d) of this title.” for “(5) certification under section 1341 of this title; (6) a permit or condition thereof issued under section 1342 of this title, which is in effect under this chapter (including a requirement applicable by reason of section 1323 of this title); or (7) a regulation under section 1345(d) of this title.”

1987—Subsec. (a). Pub. L. 100-4, § 314(c), inserted “and section 1319(g)(6) of this title” after “subsection (b) of this section” in introductory text.

Subsec. (c)(3). Pub. L. 100-4, § 504, added par. (3).

Subsec. (d). Pub. L. 100-4, § 505(c), inserted “prevailing or substantially prevailing” before “party”.

Subsec. (f). Pub. L. 100-4, § 406(d)(2), added cl. (7).

§ 1366. Appearance

The Administrator shall request the Attorney General to appear and represent the United States in any civil or criminal action instituted under this chapter to which the Administrator is a party. Unless the Attorney General notifies the Administrator within a reasonable time, that he will appear in a civil action, attorneys who are officers or employees of the Environmental Protection Agency shall appear and represent the United States in such action.

(June 30, 1948, ch. 758, title V, § 506, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 889.)

§ 1367. Employee protection**(a) Discrimination against persons filing, instituting, or testifying in proceedings under this chapter prohibited**

No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this chapter, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter.

(b) Application for review; investigation; hearing; review

Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties

to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this chapter.

(c) Costs and expenses

Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

(d) Deliberate violations by employee acting without direction from his employer or his agent

This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any prohibition of effluent limitation or other limitation under section 1311 or 1312 of this title, standards of performance under section 1316 of this title, effluent standard, prohibition or pretreatment standard under section 1317 of this title, or any other prohibition or limitation established under this chapter.

(e) Investigations of employment reductions

The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation or order under this chapter, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this chapter, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limita-

tion or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued under this chapter.

(June 30, 1948, ch. 758, title V, § 507, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 890.)

§ 1368. Federal procurement

(a) Contracts with violators prohibited

No Federal agency may enter into any contract with any person, who has been convicted of any offense under section 1319(c) of this title, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

(b) Notification of agencies

The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

(c) Omitted

(d) Exemptions

The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

(e) Annual report to Congress

The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

(f) Contractor certification or contract clause in acquisition of commercial products or commercial services

(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial products or commercial services in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

(2) In paragraph (1), the terms “commercial product” and “commercial service” have the meanings given those terms in sections 103 and 103a, respectively, of title 41.

(June 30, 1948, ch. 758, title V, § 508, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 891; amended Pub. L. 103-355, title VIII, § 8301(a), Oct. 13, 1994, 108 Stat. 3396; Pub. L. 115-232, div. A, title VIII, § 836(g)(5), Aug. 13, 2018, 132 Stat. 1873.)

CODIFICATION

Subsec. (c) of this section authorized the President to cause to be issued, not more than 180 days after October 18, 1972, an order (1) requiring each Federal agency authorized to enter into contracts or to extend Federal assistance by way of grant, loan, or contract, to effectuate the purpose and policy of this chapter, and (2) setting forth procedures, sanctions and penalties as the President determines necessary to carry out such requirement.

AMENDMENTS

2018—Subsec. (f)(1). Pub. L. 115-232, § 836(g)(5)(A), substituted “commercial products or commercial services” for “commercial items”.

Subsec. (f)(2). Pub. L. 115-232, § 836(g)(5)(B), substituted “the terms ‘commercial product’ and ‘commercial service’ have the meanings given those terms in sections 103 and 103a, respectively, of title 41.” for “the term ‘commercial item’ has the meaning given such term in section 103 of title 41.”

1994—Subsec. (f). Pub. L. 103-355 added subsec. (f).

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 2302 of Title 10, Armed Forces.

ADMINISTRATION OF CHAPTER WITH RESPECT TO FEDERAL CONTRACTS, GRANTS, OR LOANS

For provisions concerning the administration of this chapter with respect to Federal contracts, grants, or loans, see Ex. Ord. No. 11738, Sept. 10, 1973, 38 F.R. 25161, set out as a note under section 7606 of Title 42, The Public Health and Welfare.

§ 1369. Administrative procedure and judicial review

(a) Subpenas

(1) For purposes of obtaining information under section 1315 of this title, or carrying out section 1367(e) of this title, the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter, or when relevant in any proceeding under this chapter. Witnesses summoned shall be paid the same fees

and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(2) The district courts of the United States are authorized, upon application by the Administrator, to issue subpoenas for attendance and testimony of witnesses and the production of relevant papers, books, and documents, for purposes of obtaining information under sections 1314(b) and (c) of this title. Any papers, books, documents, or other information or part thereof, obtained by reason of such a subpoena shall be subject to the same requirements as are provided in paragraph (1) of this subsection.

(b) Review of Administrator's actions; selection of court; fees

(1) Review of the Administrator's action (A) in promulgating any standard of performance under section 1316 of this title, (B) in making any determination pursuant to section 1316(b)(1)(C) of this title, (C) in promulgating any effluent standard, prohibition, or pretreatment standard under section 1317 of this title, (D) in making any determination as to a State permit program submitted under section 1342(b) of this title, (E) in approving or promulgating any effluent limitation or other limitation under section 1311, 1312, 1316, or 1345 of this title, (F) in issuing or denying any permit under section 1342 of this title, and (G) in promulgating any individual control strategy under section 1314(l) of this title, may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts business which is directly affected by such action upon application by such person. Any such application shall be made within 120 days from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such application is based solely on grounds which arose after such 120th day.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(3) **AWARD OF FEES.**—In any judicial proceeding under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever it determines that such award is appropriate.

(4) **DISCHARGES INCIDENTAL TO NORMAL OPERATION OF VESSELS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), any interested person may file a petition for review of a final agency action

under section 1322(p) of this title of the Administrator or the Secretary of the department in which the Coast Guard is operating in accordance with the requirements of this subsection.

(B) **VENUE EXCEPTION.**—Subject to section 1322(p)(7)(C)(v) of this title, a petition for review of a final agency action under section 1322(p) of this title of the Administrator or the Secretary of the department in which the Coast Guard is operating may be filed only in the United States Court of Appeals for the District of Columbia Circuit.

(c) Additional evidence

In any judicial proceeding brought under subsection (b) of this section in which review is sought of a determination under this chapter required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(June 30, 1948, ch. 758, title V, § 509, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 891; amended Pub. L. 93-207, § 1(6), Dec. 28, 1973, 87 Stat. 906; Pub. L. 100-4, title III, § 308(b), title IV, § 406(d)(3), title V, § 505(a), (b), Feb. 4, 1987, 101 Stat. 39, 73, 75; Pub. L. 100-236, § 2, Jan. 8, 1988, 101 Stat. 1732; Pub. L. 115-282, title IX, § 903(c)(4), Dec. 4, 2018, 132 Stat. 4356.)

AMENDMENTS

2018—Subsec. (b)(4). Pub. L. 115-282 added par. (4).

1988—Subsec. (b)(3), (4). Pub. L. 100-236 redesignated par. (4) as (3) and struck out former par. (3) relating to venue, which provided for selection procedure in subpar. (A), administrative provisions in subpar. (B), and transfers in subpar. (C).

1987—Subsec. (b)(1). Pub. L. 100-4, §§ 308(b), 406(d)(3), 505(a), substituted “transacts business which is directly affected by such action” for “transacts such business”, “120” for “ninety”, and “120th” for “ninetieth”, substituted “1316, or 1345 of this title” for “or 1316 of this title” in cl. (E), and added cl. (G).

Subsec. (b)(3), (4). Pub. L. 100-4, § 505(b), added pars. (3) and (4).

1973—Subsec. (b)(1)(C). Pub. L. 93-207 substituted “pretreatment” for “treatment”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-236 effective 180 days after Jan. 8, 1988, see section 3 of Pub. L. 100-236, set out as a note under section 2112 of Title 28, Judiciary and Judicial Procedure.

§ 1370. State authority

Except as expressly provided in this chapter, nothing in this chapter shall (1) preclude or

deny the right of any State or political subdivision thereof or interstate agency to adopt or enforce (A) any standard or limitation respecting discharges of pollutants, or (B) any requirement respecting control or abatement of pollution; except that if an effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance is in effect under this chapter, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance under this chapter; or (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

(June 30, 1948, ch. 758, title V, § 510, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 893.)

§ 1371. Authority under other laws and regulations

(a) Impairment of authority or functions of officials and agencies; treaty provisions

This chapter shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this chapter; (2) affecting or impairing the authority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899, (30 Stat. 1112); except that any permit issued under section 1344 of this title shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 403 of this title, or (3) affecting or impairing the provisions of any treaty of the United States.

(b) Discharges of pollutants into navigable waters

Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441-451b) shall be regulated pursuant to this chapter, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

(c) Action of the Administrator deemed major Federal action; construction of the National Environmental Policy Act of 1969

(1) Except for the provision of Federal financial assistance for the purpose of assisting the construction of publicly owned treatment works as authorized by section 1281 of this title, and the issuance of a permit under section 1342 of this title for the discharge of any pollutant by a new source as defined in section 1316 of this title, no action of the Administrator taken pursuant to this chapter shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C. 4321 et seq.]; and

(2) Nothing in the National Environmental Policy Act of 1969 (83 Stat. 852) shall be deemed to—

(A) authorize any Federal agency authorized to license or permit the conduct of any activity which may result in the discharge of a pollutant into the navigable waters to review any effluent limitation or other requirement established pursuant to this chapter or the adequacy of any certification under section 1341 of this title; or

(B) authorize any such agency to impose, as a condition precedent to the issuance of any license or permit, any effluent limitation other than any such limitation established pursuant to this chapter.

(d) Consideration of international water pollution control agreements

Notwithstanding this chapter or any other provision of law, the Administrator (1) shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works (as defined in subchapter II of this chapter), any water pollution control agreement which may have been entered into between the United States and any other nation, and (2) shall not consider any such agreement in the approval of any such priority ranking.

(June 30, 1948, ch. 758, title V, § 511, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 893; amended Pub. L. 93-243, § 3, Jan. 2, 1974, 87 Stat. 1069.)

REFERENCES IN TEXT

Act of March 3, 1899, referred to in subsec. (a), is act Mar. 3, 1899, ch. 425, 30 Stat. 1121, as amended, which enacted sections 401, 403, 404, 406, 407, 408, 409, 411 to 416, 418, 502, 549, and 687 of this title and amended section 686 of this title. For complete classification of this Act to the Code, see Tables.

The Rivers and Harbors Act of 1910, referred to in subsec. (b), probably means act June 23, 1910, ch. 359, 36 Stat. 593.

The Supervisory Harbors Act of 1888, referred to in subsec. (b), probably means act June 29, 1888, ch. 496, 25 Stat. 209, as amended, which is classified generally to subchapter III (§ 441 et seq.) of chapter 9 of this title. For complete classification of this Act to the Code, see Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (c), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1974—Subsec. (d). Pub. L. 93-243 added subsec. (d).

§ 1372. Labor standards

The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on treatment works for which grants are made under this chapter shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with sections 3141-3144, 3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection,¹ the au-

¹ So in original. Probably should be "section,".

thority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 3145 of title 40.

(June 30, 1948, ch. 758, title V, § 513, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 894.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In text, “sections 3141-3144, 3146, and 3147 of title 40” substituted for “the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., sec. 276a through 276a-5)” and “section 3145 of title 40” substituted for “section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c)” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

APPLICABILITY OF LABOR STANDARDS TO CONSTRUCTION OF TREATMENT WORKS

Pub. L. 112-74, div. E, title II, Dec. 23, 2011, 125 Stat. 1020, provided in part that: “For fiscal year 2012 and each fiscal year thereafter, the requirements of section 513 of the Federal Water Pollution Control Act (33 U.S.C. 1372) shall apply to the construction of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund as authorized by title VI of that Act (33 U.S.C. 1381 et seq.), or with assistance made available under section 205(m) of that Act (33 U.S.C. 1285(m)), or both.”

§ 1373. Public health agency coordination

The permitting agency under section 1342 of this title shall assist the applicant for a permit under such section in coordinating the requirements of this chapter with those of the appropriate public health agencies.

(June 30, 1948, ch. 758, title V, § 514, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 894.)

§ 1374. Effluent Standards and Water Quality Information Advisory Committee

(a) Establishment; membership; term

(1) There is established an Effluent Standards and Water Quality Information Advisory Committee, which shall be composed of a Chairman and eight members who shall be appointed by the Administrator within sixty days after October 18, 1972.

(2) All members of the Committee shall be selected from the scientific community, qualified by education, training, and experience to provide, assess, and evaluate scientific and technical information on effluent standards and limitations.

(3) Members of the Committee shall serve for a term of four years, and may be reappointed.

(b) Action on proposed regulations

(1) No later than one hundred and eighty days prior to the date on which the Administrator is required to publish any proposed regulations required by section 1314(b) of this title, any proposed standard of performance for new sources required by section 1316 of this title, or any pro-

posed toxic effluent standard required by section 1317 of this title, he shall transmit to the Committee a notice of intent to propose such regulations. The Chairman of the Committee within ten days after receipt of such notice may publish a notice of a public hearing by the Committee, to be held within thirty days.

(2) No later than one hundred and twenty days after receipt of such notice, the Committee shall transmit to the Administrator such scientific and technical information as is in its possession, including that presented at any public hearing, related to the subject matter contained in such notice.

(3) Information so transmitted to the Administrator shall constitute a part of the administrative record and comments on any proposed regulations or standards as information to be considered with other comments and information in making any final determinations.

(4) In preparing information for transmittal, the Committee shall avail itself of the technical and scientific services of any Federal agency, including the United States Geological Survey and any national environmental laboratories which may be established.

(c) Secretary; legal counsel; compensation

(1) The Committee shall appoint and prescribe the duties of a Secretary, and such legal counsel as it deems necessary. The Committee shall appoint such other employees as it deems necessary to exercise and fulfill its powers and responsibilities. The compensation of all employees appointed by the Committee shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(2) Members of the Committee shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5.

(d) Quorum; special panel

Five members of the Committee shall constitute a quorum, and official actions of the Committee shall be taken only on the affirmative vote of at least five members. A special panel composed of one or more members upon order of the Committee shall conduct any hearing authorized by this section and submit the transcript of such hearing to the entire Committee for its action thereon.

(e) Rules

The Committee is authorized to make such rules as are necessary for the orderly transaction of its business.

(June 30, 1948, ch. 758, title V, § 515, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 894.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 1375. Reports to Congress; detailed estimates and comprehensive study on costs; State estimates

(a) Implementation of chapter objectives; status and progress of programs

Within ninety days following the convening of each session of Congress, the Administrator shall submit to the Congress a report, in addition to any other report required by this chapter, on measures taken toward implementing the objective of this chapter, including, but not limited to, (1) the progress and problems associated with developing comprehensive plans under section 1252 of this title, areawide plans under section 1288 of this title, basin plans under section 1289 of this title, and plans under section 1313(e) of this title; (2) a summary of actions taken and results achieved in the field of water pollution control research, experiments, studies, and related matters by the Administrator and other Federal agencies and by other persons and agencies under Federal grants or contracts; (3) the progress and problems associated with the development of effluent limitations and recommended control techniques; (4) the status of State programs, including a detailed summary of the progress obtained as compared to that planned under State program plans for development and enforcement of water quality requirements; (5) the identification and status of enforcement actions pending or completed under this chapter during the preceding year; (6) the status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this chapter; (7) a summary of the results of the survey required to be taken under section 1290 of this title; (8) his activities including recommendations under sections 1259 through 1261 of this title; and (9) all reports and recommendations made by the Water Pollution Control Advisory Board.

(b) Detailed estimates and comprehensive study on costs; State estimates, survey form

(1) The Administrator, in cooperation with the States, including water pollution control agencies and other water pollution control planning agencies, shall make (A) a detailed estimate of the cost of carrying out the provisions of this chapter; (B) a detailed estimate, biennially revised, of the cost of construction of all needed publicly owned treatment works in all of the States and of the cost of construction of all needed publicly owned treatment works in each of the States; (C) a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and (D) a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives as estab-

lished by this chapter or applicable State law. The Administrator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each odd-numbered year. Whenever the Administrator, pursuant to this subsection, requests and receives an estimate of cost from a State, he shall furnish copies of such estimate together with such detailed estimate to Congress.

(2) Notwithstanding the second sentence of paragraph (1) of this subsection, the Administrator shall make a preliminary detailed estimate called for by subparagraph (B) of such paragraph and shall submit such preliminary detailed estimate to the Congress no later than September 3, 1974. The Administrator shall require each State to prepare an estimate of cost for such State, and shall utilize the survey form EPA-1, O.M.B. No. 158-R0017, prepared for the 1973 detailed estimate, except that such estimate shall include all costs of compliance with section 1281(g)(2)(A) of this title and water quality standards established pursuant to section 1313 of this title, and all costs of treatment works as defined in section 1292(2) of this title, including all eligible costs of constructing sewage collection systems and correcting excessive infiltration or inflow and all eligible costs of correcting combined storm and sanitary sewer problems and treating storm water flows. The survey form shall be distributed by the Administrator to each State no later than January 31, 1974.

(c) Status of combined sewer overflows in municipal treatment works operations

The Administrator shall submit to the Congress by October 1, 1978, a report on the status of combined sewer overflows in municipal treatment works operations. The report shall include (1) the status of any projects funded under this chapter to address combined sewer overflows (2) a listing by State of combined sewer overflow needs identified in the 1977 State priority listings, (3) an estimate for each applicable municipality of the number of years necessary, assuming an annual authorization and appropriation for the construction grants program of \$5,000,000,000, to correct combined sewer overflow problems, (4) an analysis using representative municipalities faced with major combined sewer overflow needs, of the annual discharges of pollutants from overflows in comparison to treated effluent discharges, (5) an analysis of the technological alternatives available to municipalities to correct major combined sewer overflow problems, and (6) any recommendations of the Administrator for legislation to address the problem of combined sewer overflows, including whether a separate authorization and grant program should be established by the Congress to address combined sewer overflows.

(d) Legislative recommendations on program requiring coordination between water supply and wastewater control plans as condition for construction grants; public hearing

The Administrator, in cooperation with the States, including water pollution control agencies, and other water pollution control planning agencies, and water supply and water resources

agencies of the States and the United States shall submit to Congress, within two years of December 27, 1977, a report with recommendations for legislation on a program to require coordination between water supply and wastewater control plans as a condition to grants for construction of treatment works under this chapter. No such report shall be submitted except after opportunity for public hearings on such proposed report.

(e) State revolving fund report

(1) In general

Not later than February 10, 1990, the Administrator shall submit to Congress a report on the financial status and operations of water pollution control revolving funds established by the States under subchapter VI of this chapter. The Administrator shall prepare such report in cooperation with the States, including water pollution control agencies and other water pollution control planning and financing agencies.

(2) Contents

The report under this subsection shall also include the following:

(A) an inventory of the facilities that are in significant noncompliance with the enforceable requirements of this chapter;

(B) an estimate of the cost of construction necessary to bring such facilities into compliance with such requirements;

(C) an assessment of the availability of sources of funds for financing such needed construction, including an estimate of the amount of funds available for providing assistance for such construction through September 30, 1999, from the water pollution control revolving funds established by the States under subchapter VI of this chapter;

(D) an assessment of the operations, loan portfolio, and loan conditions of such revolving funds;

(E) an assessment of the effect on user charges of the assistance provided by such revolving funds compared to the assistance provided with funds appropriated pursuant to section 1287 of this title; and

(F) an assessment of the efficiency of the operation and maintenance of treatment works constructed with assistance provided by such revolving funds compared to the efficiency of the operation and maintenance of treatment works constructed with assistance provided under section 1281 of this title.

(June 30, 1948, ch. 758, title V, § 516, as added Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 895; amended Pub. L. 93-243, § 4, Jan. 2, 1974, 87 Stat. 1069; Pub. L. 95-217, §§ 70-72, Dec. 27, 1977, 91 Stat. 1608, 1609; Pub. L. 100-4, title II, § 212(c), Feb. 4, 1987, 101 Stat. 27; Pub. L. 104-66, title II, § 2021(d), Dec. 21, 1995, 109 Stat. 727; Pub. L. 105-362, title V, § 501(d)(1), Nov. 10, 1998, 112 Stat. 3283; Pub. L. 107-303, title III, § 302(b)(1), Nov. 27, 2002, 116 Stat. 2361.)

AMENDMENTS

2002—Subsecs. (a) to (e). Pub. L. 107-303 repealed Pub. L. 105-362, § 501(d)(1). See 1998 Amendment notes below.

1998—Subsec. (a). Pub. L. 105-362, § 501(d)(1)(A), which directed the striking out of subsec. (a), was repealed by

Pub. L. 107-303. See Effective Date of 2002 Amendment note below.

Subsec. (b). Pub. L. 105-362, § 501(d), which directed the striking out of par. (1) designation, redesignation of subpars. (A) to (D) as pars. (1) to (4), respectively, and striking out of par. (2), was repealed by Pub. L. 107-303. See Effective Date of 2002 Amendment note below.

Subsecs. (c) to (e). Pub. L. 105-362, § 501(d)(1)(A), which directed the striking out of subsecs. (c) to (e), was repealed by Pub. L. 107-303. See Effective Date of 2002 Amendment note below.

1995—Subsecs. (d), (e), (g). Pub. L. 104-66 redesignated subsecs. (e) and (g) as (d) and (e), respectively, and struck out former subsec. (d) which related to status reports on the use of municipal secondary effluent and sludge for agricultural and other purposes that utilize the nutrient value of treated wastewater effluent.

1987—Subsec. (g). Pub. L. 100-4 added subsec. (g).

1977—Subsecs. (c) to (e). Pub. L. 95-217 added subsecs. (c) to (e).

1974—Subsec. (b). Pub. L. 93-243 designated existing paragraph as par. (1) and cls. (1) to (4) as (A) to (D), and added par. (2).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-303 effective Nov. 10, 1998, and Federal Water Pollution Act (33 U.S.C. 1251 et seq.) to be applied and administered on and after Nov. 27, 2002, as if amendments made by section 501(a)-(d) of Pub. L. 105-362 had not been enacted, see section 302(b) of Pub. L. 107-303, set out as a note under section 1254 of this title.

STUDIES AND REPORTS

Pub. L. 100-4, title III, § 308(g), Feb. 4, 1987, 101 Stat. 40, directed Administrator to conduct a water quality improvement study and report results of such study to specified Congressional committees not later than 2 years after Feb. 4, 1987.

Pub. L. 100-4, title III, § 314(b), Feb. 4, 1987, 101 Stat. 49, directed Secretary of the Army and Administrator to each prepare a report on enforcement mechanisms and to submit the reports to Congress not later than Dec. 1, 1988.

Pub. L. 100-4, title IV, § 404(c), Feb. 4, 1987, 101 Stat. 69, directed Administrator to study extent to which States have adopted water quality standards in accordance with section 1313a of this title and extent to which modifications of permits issued under section 1342(a)(1)(B) of this title for the purpose of reflecting revisions of water quality standards be encouraged and to submit a report on such study to Congress not later than 2 years after Feb. 4, 1987, prior to repeal by Pub. L. 104-66, title II, § 2021(e)(1), Dec. 21, 1995, 109 Stat. 727.

Pub. L. 100-4, title V, § 516, Feb. 4, 1987, 101 Stat. 86, directed Administrator to conduct a study of de minimis discharges and report results of such study to specified Congressional committees not later than 1 year after Feb. 4, 1987.

Pub. L. 100-4, title V, § 517, Feb. 4, 1987, 101 Stat. 86, directed Administrator to conduct a study of effectiveness of innovative and alternative wastewater processes and techniques and report results of such study to specified Congressional committees not later than 1 year after Feb. 4, 1987.

Pub. L. 100-4, title V, § 518, Feb. 4, 1987, 101 Stat. 86, directed Administrator to conduct a study of testing procedures established under section 1314(h) of this title for analysis of pollutants and report results of such study to specified Congressional committees not later than 1 year after Feb. 4, 1987.

Pub. L. 100-4, title V, § 519, Feb. 4, 1987, 101 Stat. 87, directed Administrator to conduct a study of pretreatment of toxic pollutants and report results of such study to specified Congressional committees not later than 4 years after Feb. 4, 1987.

Pub. L. 100-4, title V, § 520, Feb. 4, 1987, 101 Stat. 87, directed Administrator, in conjunction with State and local agencies, to conduct studies of water pollution

problems in aquifers and report result of such studies to Congress not later than 2 years after Feb. 4, 1987.

Pub. L. 100-4, title V, §522, Feb. 4, 1987, 101 Stat. 88, directed Administrator to conduct a study on sulfide corrosion in collection and treatment systems and report results of such study to specified Congressional committees not later than 1 year after Feb. 4, 1987.

Pub. L. 100-4, title V, §523, Feb. 4, 1987, 101 Stat. 89, directed Administrator to conduct a study of rainfall induced infiltration into sewer systems and report results of such study to Congress not later than 1 year after Feb. 4, 1987.

Pub. L. 100-4, title V, §524, Feb. 4, 1987, 101 Stat. 89, directed Administrator to conduct a study of dam water quality and report results of such study to Congress not later than Dec. 31, 1987.

Pub. L. 100-4, title V, §525, Feb. 4, 1987, 101 Stat. 89, directed Administrator to conduct a study of pollution in Lake Pend Oreille, Idaho, and the Clark Fork River and its tributaries, Idaho, Montana, and Washington, and to report to Congress findings and recommendations.

DETAILED ESTIMATES, COMPREHENSIVE STUDY, AND COMPREHENSIVE ANALYSIS; REPORT TO CONGRESS NOT LATER THAN DECEMBER 31, 1982

Pub. L. 97-117, §25, Dec. 29, 1981, 95 Stat. 1633, provided that the Administrator of the Environmental Protection Agency submit to the Congress, not later than December 31, 1982, a report containing the detailed estimates, comprehensive study, and comprehensive analysis required by section 1375(b) of this title, including an estimate of the total cost and the amount of Federal funds necessary for the construction of needed publicly owned treatment facilities, such report to reflect the changes made in the Federal water pollution control program by Pub. L. 97-117 [see Short Title of 1981 Amendment note set out under section 1251 of this title]. The Administrator was to give emphasis to the effects of the amendment made by section 2(a) of Pub. L. 97-117 [amending section 1281(g)(1) of this title] in addressing water quality needs adequately and appropriately.

STUDY AND REPORT TO CONGRESS BY SECRETARY OF THE INTERIOR OF FINANCING WATER POLLUTION PREVENTION, CONTROL, AND ABATEMENT PROGRAMS

Pub. L. 91-224, title I, §109, Apr. 3, 1970, 34 Stat. 113, directed the Secretary of the Interior to conduct a full and complete investigation and study of the feasibility of all methods of financing the cost of preventing, controlling, and abating water pollution, other than methods authorized by existing law, with results of such investigation and study to be reported to Congress no later than Dec. 31, 1970, together with the recommendations of the Secretary for financing the programs for preventing, controlling, and abating water pollution for the fiscal years beginning after fiscal year 1971, including any necessary legislation.

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1375a. Report on coastal recreation waters

(a) In general

Not later than 4 years after October 10, 2000, and every 4 years thereafter, the Administrator of the Environmental Protection Agency shall submit to Congress a report that includes—

(1) recommendations concerning the need for additional water quality criteria for pathogens and pathogen indicators and other actions that should be taken to improve the quality of coastal recreation waters;

(2) an evaluation of Federal, State, and local efforts to implement this Act, including the amendments made by this Act; and

(3) recommendations on improvements to methodologies and techniques for monitoring of coastal recreation waters.

(b) Coordination

The Administrator of the Environmental Protection Agency may coordinate the report under this section with other reporting requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(Pub. L. 106-284, §7, Oct. 10, 2000, 114 Stat. 876.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(2), is Pub. L. 106-284, Oct. 10, 2000, 114 Stat. 870, known as the Beaches Environmental Assessment and Coastal Health Act of 2000. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 1251 of this title and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (b), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

CODIFICATION

Section was enacted as part of the Beaches Environmental Assessment and Coastal Health Act of 2000, and not as part of the Federal Water Pollution Control Act which comprises this chapter.

§ 1376. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter, other than sections 1254, 1255, 1256(a), 1257, 1258, 1262, 1263, 1264,¹ 1265, 1286, 1287, 1288(f) and (h), 1289, 1314, 1321(c), (d), (i), (l), and (k),¹ 1324, 1325, and 1327 of this title, \$250,000,000 for the fiscal year ending June 30, 1973, \$300,000,000 for the fiscal year ending June 30, 1974, \$350,000,000 for the fiscal year ending June 30, 1975, \$100,000,000 for the fiscal year ending September 30, 1977, \$150,000,000 for the fiscal year ending September 30, 1978, \$150,000,000 for the fiscal year ending September 30, 1979, \$150,000,000 for the fiscal year ending September 30, 1980, \$150,000,000 for the fiscal year ending September 30, 1981, \$161,000,000 for the fiscal year ending September 30, 1982, such sums as may be necessary for fiscal years 1983 through 1985, and \$135,000,000 per fiscal year for each of the fiscal years 1986 through 1990.

(June 30, 1948, ch. 758, title V, §517, as added Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 896; amended Pub. L. 95-217, §4(g), Dec. 27, 1977, 91 Stat. 1567; Pub. L. 96-483, §1(g), Oct. 21, 1980, 94 Stat. 2360; Pub. L. 100-4, title I, §101(h), Feb. 4, 1987, 101 Stat. 9.)

REFERENCES IN TEXT

Section 1264 of this title, referred to in text, was omitted from the Code.

¹ See References in Text note below.

Section 1321(k) of this title, referred to in text, was repealed by Pub. L. 101-380, title II, § 2002(b)(2), Aug. 18, 1990, 104 Stat. 507.

AMENDMENTS

1987—Pub. L. 100-4 struck out “and” after “1981,” and inserted “, such sums as may be necessary for fiscal years 1983 through 1985, and \$135,000,000 per fiscal year for each of the fiscal years 1986 through 1990” after “1982”.

1980—Pub. L. 96-483 inserted authorization of \$150,000,000 for fiscal year ending Sept. 30, 1981 and \$161,000,000 for fiscal year ending Sept. 30, 1982.

1977—Pub. L. 95-217 substituted “\$350,000,000 for the fiscal year ending June 30, 1975, \$100,000,000 for the fiscal year ending September 30, 1977, \$150,000,000 for the fiscal year ending September 30, 1978, \$150,000,000 for the fiscal year ending September 30, 1979, and \$150,000,000 for the fiscal year ending September 30, 1980” for “and \$350,000,000 for the fiscal year ending June 30, 1975”.

AUTHORIZATION APPROVAL FOR FUNDS APPROPRIATED BEFORE DECEMBER 27, 1977, FOR EXPENDITURES THROUGH FISCAL YEAR ENDING SEPTEMBER 30, 1977

Pub. L. 95-217, § 3, Dec. 27, 1977, 91 Stat. 1566, provided that funds appropriated before Dec. 27, 1977 for expenditure during the fiscal year ending June 30, 1976, the transition quarter ending September 30, 1976, and the fiscal year ending September 30, 1977, under authority of this chapter were authorized for those purposes for which appropriated.

§ 1377. Indian tribes

(a) Policy

Nothing in this section shall be construed to affect the application of section 1251(g) of this title, and all of the provisions of this section shall be carried out in accordance with the provisions of such section 1251(g) of this title. Indian tribes shall be treated as States for purposes of such section 1251(g) of this title.

(b) Assessment of sewage treatment needs; report

The Administrator, in cooperation with the Director of the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 1285 of this title and priority lists under section 1296 of this title, and any obstacles which prevent such needs from being met. Not later than one year after February 4, 1987, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this chapter, and (2) methods by which the participation in and administration of programs under this chapter by Indian tribes can be maximized.

(c) Reservation of funds

(1) Fiscal years 1987-2014

The Administrator shall reserve each of fiscal years 1987 through 2014, before allotments to the States under section 1285(e) of this title, one-half of one percent of the sums appropriated under section 1287 of this title.

(2) Fiscal year 2015 and thereafter

For fiscal year 2015 and each fiscal year thereafter, the Administrator shall reserve,

before allotments to the States under section 1384(a) of this title, not less than 0.5 percent and not more than 2.0 percent of the funds made available to carry out subchapter VI.

(3) Use of funds

Funds reserved under this subsection shall be available only for grants for projects and activities eligible for assistance under section 1383(c) of this title to serve—

(A) Indian tribes (as defined in subsection (h));

(B) former Indian reservations in Oklahoma (as determined by the Secretary of the Interior); and

(C) Native villages (as defined in section 1602 of title 43).

(d) Cooperative agreements

In order to ensure the consistent implementation of the requirements of this chapter, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the requirements of this chapter.

(e) Treatment as States

The Administrator is authorized to treat an Indian tribe as a State for purposes of subchapter II of this chapter and sections 1254, 1256, 1313, 1315, 1318, 1319, 1324, 1329, 1341, 1342, 1344, and 1346 of this title to the degree necessary to carry out the objectives of this section, but only if—

(1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

(2) the functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and

(3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this chapter and of all applicable regulations.

Such treatment as a State may include the direct provision of funds reserved under subsection (c) to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation with the Director of the Indian Health Service, is authorized to make grants under subchapter II of this chapter in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after February 4, 1987, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this chapter. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of

any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of this chapter.

(f) Grants for nonpoint source programs

The Administrator shall make grants to an Indian tribe under section 1329 of this title as though such tribe was a State. Not more than one-third of one percent of the amount appropriated for any fiscal year under section 1329 of this title may be used to make grants under this subsection. In addition to the requirements of section 1329 of this title, an Indian tribe shall be required to meet the requirements of paragraphs (1), (2), and (3) of subsection (d)¹ of this section in order to receive such a grant.

(g) Alaska Native organizations

No provision of this chapter shall be construed to—

- (1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any Alaska Native organization, including any federally-recognized tribe, traditional Alaska Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), over lands or persons in Alaska;
- (2) create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska; or
- (3) in any way affect any assertion that Indian country, as defined in section 1151 of title 18, exists or does not exist in Alaska.

(h) Definitions

For purposes of this section, the term—

- (1) “Federal Indian reservation” means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and
- (2) “Indian tribe” means any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

(June 30, 1948, ch. 758, title V, § 518, as added Pub. L. 100-4, title V, § 506, Feb. 4, 1987, 101 Stat. 76; amended Pub. L. 100-581, title II, § 207, Nov. 1, 1988, 102 Stat. 2940; Pub. L. 106-284, § 6, Oct. 10, 2000, 114 Stat. 876; Pub. L. 113-121, title V, § 5013, June 10, 2014, 128 Stat. 1328.)

REFERENCES IN TEXT

Act of June 18, 1934 (48 Stat. 987), referred to in subsec. (g)(1), is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is

classified generally to chapter 45 (§5101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 518 of act June 30, 1948, was renumbered section 519 and is set out as a note under section 1251 of this title.

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-121, §5013(1), (3), designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

Subsec. (c)(1). Pub. L. 113-121, §5013(2), substituted “each of fiscal years 1987 through 2014,” for “each fiscal year beginning after September 30, 1986,” and struck out at end “Sums reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve Indian tribes, as defined in subsection (h) and former Indian reservations in Oklahoma (as determined by the Secretary of the Interior) and Alaska Native Villages as defined in Public Law 92-203.”

2000—Subsec. (e). Pub. L. 106-284 substituted “1344, and 1346 of this title” for “and 1344 of this title” in introductory provisions.

1988—Subsec. (c). Pub. L. 100-581 inserted “, as defined in subsection (h) and former Indian reservations in Oklahoma (as determined by the Secretary of the Interior) and Alaska Native Villages as defined in Public Law 92-203” before period at end.

GRANTS FOR CONSTRUCTION OF WATER FACILITIES AND FOR WATER QUALITY PROTECTION

Pub. L. 109-54, title II, Aug. 2, 2005, 119 Stat. 530, provided in part: “That, notwithstanding this or any other appropriations Act, heretofore and hereafter, after consultation with the House and Senate Committees on Appropriations and for the purpose of making technical corrections, the Administrator is authorized to award grants under this heading [State and Tribal Assistance Grants] to entities and for purposes other than those listed in the joint explanatory statements of the managers accompanying the Agency’s appropriations Acts for the construction of drinking water, wastewater and stormwater infrastructure and for water quality protection.”

GRANTS TO INDIAN TRIBES

Provisions stating that for fiscal year 2006 and notwithstanding section 1377(f) of this title, the Administrator was authorized to use the amounts appropriated for any fiscal year under section 1329 of this title to make grants to Indian tribes pursuant to sections 1329(h) and 1377(e) of this title, were contained in the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Pub. L. 109-54, title II, Aug. 2, 2005, 119 Stat. 530, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were contained in the following prior appropriations acts:

Pub. L. 108-447, div. I, title III, Dec. 8, 2004, 118 Stat. 3330.

Pub. L. 108-199, div. G, title III, Jan. 23, 2004, 118 Stat. 406.

Pub. L. 108-7, div. K, title III, Feb. 20, 2003, 117 Stat. 512.

Pub. L. 107-73, title III, Nov. 26, 2001, 115 Stat. 685.

Pub. L. 106-377, §1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A-43.

Pub. L. 106-74, title III, Oct. 20, 1999, 113 Stat. 1083.

§ 1377a. Green infrastructure promotion

(a) In general

The Administrator shall promote the use of green infrastructure in, and coordinate the inte-

¹ So in original. Probably should be subsection “(e)”.

gration of green infrastructure into, permitting and enforcement under this chapter, planning efforts, research, technical assistance, and funding guidance of the Environmental Protection Agency.

(b) Coordination of efforts

The Administrator shall ensure that the Office of Water coordinates efforts to increase the use of green infrastructure with—

- (1) other Federal departments and agencies;
- (2) State, tribal, and local governments; and
- (3) the private sector.

(c) Regional green infrastructure promotion

The Administrator shall direct each regional office of the Environmental Protection Agency, as appropriate based on local factors, and consistent with the requirements of this chapter, to promote and integrate the use of green infrastructure within the region, including through—

- (1) outreach and training regarding green infrastructure implementation for State, tribal, and local governments, tribal communities, and the private sector; and
- (2) the incorporation of green infrastructure into permitting and other regulatory programs, codes, and ordinance development, including the requirements under consent decrees and settlement agreements in enforcement actions.

(d) Green infrastructure information-sharing

The Administrator shall promote green infrastructure information-sharing, including through an internet website, to share information with, and provide technical assistance to, State, tribal, and local governments, tribal communities, the private sector, and the public, regarding green infrastructure approaches for—

- (1) reducing water pollution;
- (2) protecting water resources;
- (3) complying with regulatory requirements; and
- (4) achieving other environmental, public health, and community goals.

(June 30, 1948, ch. 758, title V, § 519, as added Pub. L. 115-436, § 5(b)(2), Jan. 14, 2019, 132 Stat. 5561.)

PRIOR PROVISIONS

A prior section 519 of act June 30, 1948, was renumbered section 520 and is set out as a note under section 1251 of this title.

**SUBCHAPTER VI—STATE WATER
POLLUTION CONTROL REVOLVING FUNDS**

§ 1381. Grants to States for establishment of revolving funds

(a) General authority

Subject to the provisions of this subchapter, the Administrator shall make capitalization grants to each State for the purpose of establishing a water pollution control revolving fund to accomplish the objectives, goals, and policies of this chapter by providing assistance for projects and activities identified in section 1383(c) of this title.

(b) Schedule of grant payments

The Administrator and each State shall jointly establish a schedule of payments under which

the Administrator will pay to the State the amount of each grant to be made to the State under this subchapter. Such schedule shall be based on the State's intended use plan under section 1386(c) of this title, except that—

(1) such payments shall be made in quarterly installments, and

(2) such payments shall be made as expeditiously as possible, but in no event later than the earlier of—

(A) 8 quarters after the date such funds were obligated by the State, or

(B) 12 quarters after the date such funds were allotted to the State.

(June 30, 1948, ch. 758, title VI, § 601, as added Pub. L. 100-4, title II, § 212(a), Feb. 4, 1987, 101 Stat. 22; amended Pub. L. 113-121, title V, § 5001, June 10, 2014, 128 Stat. 1322.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-121 substituted “to accomplish the objectives, goals, and policies of this chapter by providing assistance for projects and activities identified in section 1383(c) of this title.” for “for providing assistance (1) for construction of treatment works (as defined in section 1292 of this title) which are publicly owned, (2) for implementing a management program under section 1329 of this title, and (3) for developing and implementing a conservation and management plan under section 1330 of this title.”

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-121, title V, § 5006, June 10, 2014, 128 Stat. 1327, provided that: “This subtitle [subtitle A (§§ 5001-5006) of title V of Pub. L. 113-121, enacting section 1388 of this title and amending this section and sections 1382 and 1383 of this title], including any amendments made by the subtitle, shall take effect on October 1, 2014.”

§ 1382. Capitalization grant agreements

(a) General rule

To receive a capitalization grant with funds made available under this subchapter and section 1285(m) of this title, a State shall enter into an agreement with the Administrator which shall include but not be limited to the specifications set forth in subsection (b) of this section.

(b) Specific requirements

The Administrator shall enter into an agreement under this section with a State only after the State has established to the satisfaction of the Administrator that—

(1) the State will accept grant payments with funds to be made available under this subchapter and section 1285(m) of this title in accordance with a payment schedule established jointly by the Administrator under section 1381(b) of this title and will deposit all such payments in the water pollution control revolving fund established by the State in accordance with this subchapter;

(2) the State will deposit in the fund from State moneys an amount equal to at least 20 percent of the total amount of all capitalization grants which will be made to the State with funds to be made available under this subchapter and section 1285(m) of this title on or before the date on which each quarterly grant payment will be made to the State under this subchapter;